

IN THE DISTRICT COURT OF THE UNITED STATES
FOR THE MIDDLE DISTRICT OF ALABAMA
NORTHERN DIVISION

ROBERT CORAL,

Petitioner,

V.

RICHARD F. ALLEN, Commissioner
Alabama Department of Corrections,
et. al.,¹

Respondents.

CIVIL ACT. NO.2:05cv1112-MEF

PRETRIAL ORDER

Based on the Joint Report filed by the parties on April 3, 2006 and the scheduling/case management conference on held May 11, 2006 and for good cause, it is hereby ORDERED:

1. That the petitioner shall file all motions for discovery on or before May 15, 2006;
2. That the respondent shall file all responses/objections to the motions for discovery on or before May 22, 2006.
3. That the period for permitted discovery, if any, shall conclude on July 19,

Pursuant to Rule 25 (d) (1) Federal Rules of Civil Procedure, Richard F. Allen, newly appointed Commissioner of Alabama Department of Corrections, is automatically substituted in his official capacity as a party to this action.

2006.

4. That the respondents shall file on or before July 19, 2006² a brief which addresses all claims which the respondents contend are procedurally defaulted, explaining the nature of the alleged default .

2. That the petitioner shall file on or before August 16, 2006 a brief which

a. responds to the procedural default claims raised by respondents and states the petitioner's position on cause and prejudice, including whether a hearing on cause and prejudice is necessary as to any defaulted claim.

b. addresses the merits of ALL claims, including the need for an evidentiary hearing on specific claims.

3. That the respondents shall file on or before September 13, 2006 a brief responding

a. to the procedural default and default hearing issues.

b. to the merit and merit hearing issues raised by the petitioner.

4. That the petitioner shall file on or before September 27, 2006 a brief replying only to the merit and merit hearing issues addressed by the respondent.

5. That this Order and the Joint Report filed April 3, 2006 and incorporated herein

² Because the respondents bear the burden of establishing that a procedural default has occurred, *see Gordon v. Nagle*, 2 F. 3d 385, 388 (11th Cir. 1993), the court concludes it is appropriate that the respondents file the first brief.

by reference shall govern all further proceedings in this matter. Any claim and any procedural default ground not included in this Pretrial Order as referenced in the Joint Report is deemed abandoned and will not be considered by the court absent a compelling showing of cause for counsel's failure to identify the claim or ground. It is further

ORDERED that if counsel have any objections to the deadlines established in this order, the objections must be filed on or before May 25, 2006, or the objections will be waived.

Done this 11th day of May, 2006.

/s/Charles S. Coody
CHARLES S. COODY
CHIEF UNITED STATES MAGISTRATE JUDGE